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EXAMINER

RHODE JR, ROBERT E

ART UNIT            PAPER NUMBER

3625

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/933,766	Applicant(s) OZAKI ET AL.	
	Examiner Rob Rhode	Art Unit 3625	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 06 January 2005.
- 2a)  This action is **FINAL**.                      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-29 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-29 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some \*    c)  None of:
    - 1.  Certified copies of the priority documents have been received.
    - 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4)  Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Amendment*

Applicant amendment of 1-6-05 amended the specification and claims 1 – 4, 9 – 12, 14 – 15, 24 and 27 - 29 as well as traversed rejections of Claims 1 - 29.

Currently, claims 1- 29 are pending.

### *Priority*

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file. However, the entire priority document is not in file and thereby a complete copy would be required.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 2, 7, 10, 24 - 25 and 27 - 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerszberg (US 6,178,446 B1) in view of an obvious variation.**

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Regarding claim I and related claims 10, 27 - 29, Gerszberg teaches a method and system for offering to purchase merchandise or a service, comprising:

receiving information relating to a COMMERCIAL MESSAGE broadcast through a broadcasting station generated by a commerce out-sourcing center receiving a request from at least one of a merchandise producer and a service provider according to commerce information managed by the commerce out-sourcing center (see at least Abstract, Col 1, lines 59 – 67 and Col 2, lines 1 – 7 and Col 10, lines 13 - 36);

offering to purchase merchandise or a service according to the COMMERCIAL MESSAGE information relating to the COMMERCIAL MESSAGE broadcast and display according to an instruction for displaying the commerce message information relating to the commercial message broadcast (see at least Col 2, lines 42 - 49); and

transmitting COMMERCIAL MESSAGE broadcast designation information designating at least the COMMERCIAL MESSAGE broadcast as commerce information to the commerce out - sourcing center (see at least Col 2, lines 42 - 49).

While Gerszberg discloses the applicant's invention as claimed, the reference does not specifically disclose an outsourcing center.

On other hand, Gerszberg does disclose service providers, which include ISP and interchange companies, which utilize the method and system of Gerszberg to furnish services such as receiving broadcast from TV and/or cable and/or advertisers with

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commercial messages to be broadcast to subscribers as well as allow the subscriber to click on advertisements and order the product.

In this regard, it would have been obvious to one of ordinary skill in the art to have extended the method, system and service of Gerszberg with outsourcing center utilizing the method of Gerszberg. Therefore, one of ordinary skill in the art would have been motivated to extend the method and system of Gerszberg with outsourcing center. In this manner, the types of business entities that utilize the method and system of Gerszberg and will also increase additional sales of the method and system.

Regarding claim 2, Gerszberg teaches a method, wherein said commercial message information contains at least one of a merchandise catalog, a merchandise guide book in which merchandise is classified based on a characteristic of each piece of merchandise, a merchandise purchase support page supporting purchase of merchandise based on the merchandise guide book, a service catalog, a service guide book in which a service is classified based on a characteristic of each service, and a service purchase support page supporting purchase of a service based on the service guide book (Col 2, lines 36 – 39 and line 47 and Col 10, lines 2 - 3) and (claim 3) wherein: said CM information is described in an XML data format; and specific information contained in the CM information is distributed (Col 2, line 47 and Col 5, lines 39 - 43). Please note that Gerszberg does not disclose XML. However, Gerszberg does disclose receiving additional information such as purchase order over the service

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configured to support IP. In this regard, it would have been obvious to one of ordinary skill in the art to have extended the method and system of Gerszberg with XML, which will provide the necessary information regardless of file structures.

Regarding claim 7, Gerszberg teaches a method, wherein said commerce information contains any of information relating to merchandise or a service, attribute data of the client, and information about merchandise or a service purchased by the client (Col 2, line 42 – 49 and Col 10, lines 13 - 36).

Regarding claim 24, Gerszberg teaches a method, further comprising transmitting information about the merchandise or service purchased by a client, and attribute data of the client with commercial message broadcast designation information (Col 9, lines 10 - 24) and (25) wherein when said client purchases merchandise or a service, the client place an order at an Internet shop (Col 2, lines 47 -50).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 4 - 6, 11, 12, 14, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerszberg (US 6,178,446 B1) in view of Mayer (US 5,774,534).**

Gerszberg substantially discloses and teaches the applicant's invention.

However, Gerszberg does not specifically disclose and teach a method and system wherein commercial message is bought, inventory information changes the commercial message and analyzing data of the managed commerce information; and transmitting an analysis result to the merchandise producer or the service provider as well as wherein said CM broadcast designation information is transmitted through Internet or a communication line from a client home or a shop where a transmitting terminal is provided

On the other hand and regarding claim 4, Mayer teaches a method, wherein a broadcast program for broadcasting the commercial message broadcast and the commercial message information relating to the commercial message broadcast is bought from the broadcasting station (Abstract) and (5) wherein said broadcast program is changed based on at least one of merchandise inventory information about the merchandise producer and service providing information about the service provider. Please note that Mayer does not specifically disclose changing broadcast information based on inventory or service is changed. However, it is old and well known that these

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would have been changed as warranted for prudent business and management principals. In this regard, it would have been obvious to one of ordinary skill in the art to change the broadcast program when inventory or service specifics changed. In this manner, it will ensure that current and potential customers are not surprised by a lack of inventory, which will adversely affect customer satisfaction. Thereby, the method will have ensured customer satisfaction.

Regarding claim 6, Mayer teaches a method further comprising: analyzing data of the managed commerce information; and transmitting an analysis result to the merchandise producer or the service provider (Col 14, lines 15 – 42).

Regarding claim 11, Mayer teaches a method, wherein said commercial message broadcast designation information is transmitted through Internet or a communication line from a client home or a shop where a transmitting terminal is provided (Figure 1).

Regarding claim 12, Mayer teaches a method, wherein when a client purchases merchandise or a service according to the commercial message information, an authenticating process is performed by an authentication organization (Col 12, lines 1 - 5).

Regarding claim 14, Mayer teaches a method, wherein: said client owns a terminal; said terminal comprises: an identifier identifying a person; and a living information obtaining



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unit obtaining living information; said authentication organization comprises living information of the person associated with the identifier; when an authenticating process is performed by said authentication organization, said terminal transmits the identifier and the living information obtained by said living information obtaining unit to the authentication organization; and said authentication organization designates living information associated with the identifier based on the identifier received from said terminal, performs a authenticating process by comparing the designated living information with the living information transmitted from the terminal, and transmits a result of the authenticating process to a target which requires the result (Col 12, lines 1 - 5).

Regarding claim 16, Mayer teaches a method, wherein said living information is voice information, face image information, or face animation information (Col 12, line 4).

Regarding claim 17, Mayer teaches a method, wherein said living information is a plurality of face images indicating different expressions obtained when an expression of a face changes. Please note that Mayer does not disclose living information consisting of face images. However, Mayer does disclose voice samples for access, thereby equivalent to authentication. Moreover, these methods of providing living information for access/authentication were old and well known at the time of the invention (see Maali US 6,567,775 B1).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the method and system of Gerszberg with the method and system of Mayer to have enabled a method and system wherein commercial message is bought, inventory information changes the commercial message and analyzing data of the managed commerce information; and transmitting an analysis result to the merchandise producer or the service provider as well as wherein said commercial message broadcast designation information is transmitted through Internet or a communication line from a client home or a shop where a transmitting terminal is provided – in order to provided additional value added services. Gerszberg discloses a method and system for offering to purchase merchandise or a service, comprising: receiving information relating to a COMMERCIAL MESSAGE broadcast through a broadcasting station generated by a commerce out-sourcing center receiving a request from at least one of a merchandise producer and a service provider according to commerce information managed by the commerce out-sourcing center; offering to purchase merchandise or a service according to the COMMERCIAL MESSAGE information relating to the COMMERCIAL MESSAGE broadcast and display according to an instruction for displaying the commerce message information relating to the commercial message broadcast; and transmitting COMMERCIAL MESSAGE broadcast designation information designating at least the COMMERCIAL MESSAGE broadcast as commerce information to the commerce out - sourcing center (see at least Abstract, Col 1, lines 62 – 67 and Col 2, lines 1 – 7 and Col 10, lines 13 - 36). Mayer discloses a method and system wherein commercial message is bought, inventory information changes the

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commercial message and analyzing data of the managed commerce information; and transmitting an analysis result to the merchandise producer or the service provider as well as wherein said CM broadcast designation information is transmitted through Internet or a communication line from a client home or a shop where a transmitting terminal is provided (see at least Abstract, Col 14, lines 15 - 42 and Figure 1).

Therefore, one of ordinary skill in the art would have been motivated to extend the method and system of Gerszberg with a method and system for a method and system wherein commercial message is bought, inventory information changes the commercial message and analyzing data of the managed commerce information; and transmitting an analysis result to the merchandise producer or the service provider as well as wherein said CM broadcast designation information is transmitted through Internet or a communication line from a client home or a shop where a transmitting terminal is provided.

**Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerszberg (US 6,178,446 B1) in view of Esposito (US 6,587,838 B1).**

Gerszberg substantially discloses and teaches the applicant's invention.

However, Gerszberg does not specifically disclose and teach a method, further comprising distributing instructions about merchandise or a service generated by the merchandise producer or the service provider to a shop at which a client receives

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merchandise or a service so that the client can receive a support of aftercare for the merchandise or the service or further comprising assigning the client a service point based on the CM broadcast designation information, information about merchandise or a service purchased by the client, and attribute data of the client.

On the other hand and regarding claim 8, Esposito teaches a method according, further comprising distributing instructions about merchandise or a service generated by the merchandise producer or the service provider to a shop at which a client receives merchandise or a service so that the client can receive a support of aftercare for the merchandise or the service (Abstract and Figure 4).

Regarding claim 9, Esposito teaches a method, further comprising assigning the client a service point based on the commercial message broadcast designation information, information about merchandise or a service purchased by the client, and attribute data of the client (Abstract and Figure 4).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the method and system of Gerszberg with the method of Esposito to have enabled a method, further comprising distributing instructions about merchandise or a service generated by the merchandise producer or the service provider to a shop at which a client receives merchandise or a service so that the client can receive a support of aftercare for the merchandise or the service and further comprising assigning the

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client a service point based on the commercial message broadcast designation information, information about merchandise or a service purchased by the client, and attribute data of the client and transmitting information about the service purchased by the client as well as placing an order - in order to ensure that client receives appropriate follow on support from the best merchandiser. Gerszberg discloses a method and system for offering to purchase merchandise or a service, comprising: receiving commercial message information relating to a commercial message broadcast through a broadcasting station generated by a commerce out-sourcing center receiving a request from at least one of a merchandise producer and a service provider according to a commerce information managed by the commerce out-sourcing center; offering to purchase merchandise or a service according to the commercial message information relating to the commercial message broadcast; and transmitting commercial message broadcast designation information designating at least the commercial message broadcast as commerce information to the commerce out - sourcing center (see at least Abstract, Col 3, lines 39 – 51 and Figures 1 and 7). Esposito discloses a method and system further comprising distributing instructions about merchandise or a service generated by the merchandise producer or the service provider to a shop at which a client receives merchandise or a service so that the client can receive a support of aftercare for the merchandise or the service and further comprising assigning the client a service point based on the commercial message broadcast designation information, information about merchandise or a service purchased by the client, and attribute data of the client and transmitting information about the service purchased by the client as

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well as placing an order (Abstract and Col 2, lines 11 – 16 and Figure 4). Therefore, one of ordinary skill in the art would have been motivated to extend the method and system of Gerszberg with a method and system further comprising distributing instructions about merchandise or a service generated by the merchandise producer or the service provider to a shop at which a client receives merchandise or a service so that the client can receive a support of aftercare for the merchandise or the service. Nor does Mayer specifically disclose and teach a method, further comprising assigning the client a service point based on the commercial message broadcast designation information, information about merchandise or a service purchased by the client, and attribute data of the client and transmitting information about the service purchased by the client as well as placing an order. In this manner, the client is provided with a merchant convenient to them and thereby easing their requirements to find one. This ease of use will increase their satisfaction, which will increase the probability that the client will recommend the method to others.

**Claims 13, 20, 21 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Gerszberg and Mayer as applied to claim 12 above, and further in view of Hertz (US 6,571,279 B1).**

The combination of Gerszberg and Mayer disclose and teaches substantially the applicant's invention.

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However, the combination of Gerszberg and Mayer does not specifically disclose and teach a method wherein: said client owns a terminal; and said authentication organization continuously obtains positional information about the terminal, and performs an authenticating process by comparing positional information about the terminal obtained when the authenticating process is performed with continuously obtained positional information about the terminal. Nor does the combination teach authentication based on rate of movement, which could be large and calculated or on no continuity of position as well as where a plurality of terminals have the same id number.

On the other hand and regarding claim 13, Hertz teaches a method, wherein: said client owns a terminal; and said authentication organization continuously obtains positional information about the terminal, and performs an authenticating process by comparing positional information about the terminal obtained when the authenticating process is performed with continuously obtained positional information about the terminal (see at least Abstract and Col 4, lines 59 – 62).

Regarding claim 20, Hertz teaches a method, wherein said authentication organization does not authenticate a user when determining that an amount of position movement per unit time of the terminal is large according to continuously obtained positional information about the terminal, and there is no continuity of the position (Col 4, lines 59 – 62).

Regarding claim 21, Hertz teaches a method wherein: said terminal transmits a type of transportation input by an owner to the authentication organization; and based on the type of the transportation, said authentication organization changes an amount of position movement based on which it is determined that there is no continuity of the position (Col 4, lines 59 - 6).

Regarding claim 26, Hertz teaches a method, wherein said authentication organization performs an authenticating process according to continuously obtained positional information about the terminal when a plurality of terminals having the same identification numbers appear in a unit time (Col 4, lines 59 – 62). Please note that Hertz does not specifically disclose authentication when two terminals with the same unit number appear in a unit of time. However, Hertz does teach reading each user having a unique authentication. In this regard, it would have been obvious to one of ordinary skill in the art to have provide the method of Hertz to achieve said authentication organization performs an authenticating process according to continuously obtained positional information about the terminal when a plurality of terminals having the same identification numbers appear in a unit time. In this manner, it will ensure that the client terminal is identified should two appear together. Indeed, this will preclude incorrect billing usage as well ensuring security.



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It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of Gerszberg and Mayer with the method of Hertz to have enabled a method wherein: said client owns a terminal; and said authentication organization continuously obtains positional information about the terminal, and performs an authenticating process by comparing positional information about the terminal obtained when the authenticating process is performed with continuously obtained positional information about the terminal and method of authentication based on rate of movement, which could be large and calculated or on no continuity of position as well as where a plurality of terminals have the same id number. The combination of Gerszberg and Mayer disclose a method and system for offering to purchase merchandise or a service, comprising: receiving commercial message information relating to a commercial message broadcast through a broadcasting station generated by a commerce out-sourcing center receiving a request from at least one of a merchandise producer and a service provider according to a commerce information managed by the commerce out-sourcing center; offering to purchase merchandise or a service according to the commercial message information relating to the commercial message broadcast; and transmitting commercial message broadcast designation information designating at least the commercial message broadcast as commerce information to the commerce out - sourcing center and including a method wherein when a client purchases merchandise or a service according to the CM information, an authenticating process is performed by an authentication organization and an identifier with living information that transmits the living information to a target as well as where

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the living information is face animation information as well as wherein the living information is a plurality of different face expressions obtained as the face changes. Hertz discloses a method wherein: said client owns a terminal; and said authentication organization continuously obtains positional information about the terminal, and performs an authenticating process by comparing positional information about the terminal obtained when the authenticating process is performed with continuously obtained positional information about the terminal and authentication based on rate of movement, which could be large and calculated or on no continuity of position as well as where a plurality of terminals have the same id number (Abstract and Col 4, lines 56 - 67) . Therefore, one of ordinary skill in the art would have been motivated to extend the combination of Gerszberg and Mayer with a method wherein: said client owns a terminal; and said authentication organization continuously obtains positional information about the terminal, and performs an authenticating process by comparing positional information about the terminal obtained when the authenticating process is performed with continuously obtained positional information about the terminal and authentication based on rate of movement, which could be large and calculated or on no continuity of position as well as where a plurality of terminals have the same id number. These authentication techniques applies another level of security and therefore trust. With this increased level of authentication, the method could have been used as additional feature, which differentiates this method form others and thereby attract more clients. Additionally, it also increases satisfaction and trust for the client, which will increase the probability that they will recommend the method to others.

**Claims 15, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Gerszberg and Mayer as applied to claim 14 above and further in view of St. John (US 6,463,415 B2).**

The combination of Gerszberg and Mayer substantially disclose and teach the applicant's invention.

However, the combination does not specifically disclose and teach a method with an authentication organization for estimating emotion and notifies a peace and order organization when fear is emoted. Nor does the combination specifically disclose and teach wherein emotion is estimated with the face or voice.

On the other hand and regarding claim 15, St. John teaches, wherein said authentication organization further comprises an emotion estimation unit for estimating emotion from the living information received from the terminal, and notifies a public peace and order maintaining organization when the living information indicates fear based on estimation of emotion according to the living information by said emotion estimation unit (Abstract). Please note that St. John does not specifically have notification of a peace and order maintaining organization. However, St. John does specifically cite the use of this method in border crossing, which is used to identify individuals. In this regard, it would have been obvious to one of ordinary skill in the art

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that the method would have notified a peace and ordering organization – if the individuals voice pattern was not recognized due to increased nervousness. Thereby, the security is increased for the method.

Regarding claim 22, St John teaches a method, wherein said living information according to which emotion is estimated by said emotion estimation unit is face image information (Col 1, line 20 -23).

Regarding claim 23, St John teaches a method, wherein said living information according to which emotion is estimated by said emotion estimation unit is voice information (Col 1, lines 20 – 23).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of Gerszberg and Mayer with the method of St. John to have enabled a method with an authentication organization for estimating emotion and notifies a peace and order organization when fear is emoted and wherein emotion is estimated with the face or voice. The combination of Gerszberg and Mayer disclose a method and system for offering to purchase merchandise or a service, comprising: receiving CM information relating to a CM broadcast through a broadcasting station generated by a commerce out-sourcing center receiving a request from at least one of a merchandise producer and a service provider according to a commerce information managed by the commerce out-sourcing center; offering to purchase merchandise or a

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service according to the CM information relating to the CM broadcast; and transmitting CM broadcast designation information designating at least the CM broadcast as commerce information to the commerce out - sourcing center and including a method wherein when a client purchases merchandise or a service according to the CM information, an authenticating process is performed by an authentication organization and an identifier with living information that transmits the living information to a target as well as where the living information is face animation information as well as wherein the living information is a plurality of different face expressions obtained as the face changes. St John discloses a method with an authentication organization for estimating emotion and notifies a peace and order organization when fear is emoted and wherein emotion is estimated with the face or voice (Abstract and Col 1, lines 20 – 25).

Therefore, one of ordinary skill in the art would have been motivated to extend the combination of Gerszberg and Mayer with a method with an authentication organization for estimating emotion and notifies a peace and order organization when fear is emoted and wherein emotion is estimated with the face or voice. With this method, the client can obtain a level of safety, which will be could be most useful. With this added level of ensuring a client safety, the method could have gained wider appeal and thereby increase the desire for other clients to obtain in order to enhance their personal safety.

**Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Gerszberg and Mayer as applied to claim 14 above and further in view of Bakis (US 6,219,639).**

The combination of Gerszberg and Mayer substantially disclose and teach the applicant's invention.

However, the combination of Gerszberg and Mayer does not specifically disclose and teach a method with a living information obtaining unit with authentication and transmits results of voice and animation information about the mouth and checks synchronization between the mouth and voice. Nor does the combination specifically disclose and teach authentication process associated with the mouth.

On the other hand and regarding 18, Bakis teaches a method, wherein: said living information obtained by said living information obtaining unit is voice information and animation information about a mouth portion of a face; when said authentication organization performs an authenticating process; said terminal transmits the voice information and the animation information about the mouth portion obtained by said living information obtaining unit to the authentication organization; and said authentication organization performs an authenticating process based on the voice information and the animation information about the mouth portion transmitted from the terminal, checks synchronization between the mouth portion and the voice, and transmits a result of the authenticating process to a target which requires the result (see at least Abstract, Col 8, lines 7 - 14 and Figures 1 - 3).

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Regarding claim 19, Bakis teaches a method, wherein: said terminal further comprises an outline information obtaining unit outputting animation information only about an outline of a mouth portion from the animation information about the mouth portion obtained from said living information obtaining unit; when said authentication organization performs an authenticating process, said terminal transmits the voice information and the animation information only about the outline of the mouth portion; and the authentication organization performs an authenticating process based on the voice information and the animation information only about the outline of the mouth portion transmitted from the terminal, checks synchronization between the mouth portion and the voice (Col 8, lines 7 – 14).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of Gerszberg and Mayer with the method of St John to have enabled a method with a living information obtaining unit with authentication and transmits results of voice and animation information about the mouth and checks synchronization between the mouth and voice as well as an authentication process associated with the mouth. The combination of Gerszberg and Mayer disclose a method and system for offering to purchase merchandise or a service, comprising: receiving CM information relating to a CM broadcast through a broadcasting station generated by a commerce out-sourcing center receiving a request from at least one of a merchandise producer and a service provider according to a commerce information managed by the commerce out-sourcing center; offering to purchase merchandise or a

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service according to the CM information relating to the CM broadcast; and transmitting CM broadcast designation information designating at least the CM broadcast as commerce information to the commerce out - sourcing center and including a method wherein when a client purchases merchandise or a service according to the CM information, an authenticating process is performed by an authentication organization and an identifier with living information that transmits the living information to a target as well as where the living information is face animation information as well as wherein the living information is a plurality of different face expressions obtained as the face changes. Bakis discloses a method with a living information obtaining unit with authentication and transmits results of voice and animation information about the mouth and checks synchronization between the mouth and voice and authentication process associated with the mouth. Therefore, one of ordinary skill in the art at the time of the invention would have been motivated to extend the combination of Gerszberg and Mayer with a method with a living information obtaining unit with authentication and transmits results of voice and animation information about the mouth and checks synchronization between the mouth and voice and authentication process associated with the mouth.

Thereby, the level of security will be increased, which would have increase the feeling of safety in the client and thus increase the level of satisfaction of the client and therefore increase the probability that the client will recommend the method to others.



### ***Response to Arguments***

Applicant's arguments with respect to claims 1 - 29 have been considered but are moot in view of the new ground(s) of rejection.

Please note that a "traverse" is a denial of an opposing party's allegations of fact.<sup>1</sup> The Examiner respectfully submits that applicants' arguments and comments do not appear to traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made. Even if one were to interpret applicants' arguments and comments as constituting a traverse, applicants' arguments and comments do not appear to constitute an adequate traverse because applicant has not specifically pointed out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR 1.104(d)(2), MPEP 707.07(a). An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying Examiner's notice of what is well known to one of ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971).

If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). MPEP 2144.03

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<sup>1</sup> Definition of Traverse, Black's Law Dictionary, "In common law pleading, a traverse signifies a denial."

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Reliance on Common Knowledge in the Art or "Well Known" Prior Art. In view of applicant's failure to adequately traverse official notice, the following is admitted prior art: (5) wherein said broadcast program is changed based on at least one of merchandise inventory information about the merchandise producer and service providing information about the service provider. Please note that Mayer does not specifically disclose changing broadcast information based on inventory or service is changed. However, it is old and well known that these would have been changed as warranted for prudent business and management principals. In this regard, it would have been obvious to one of ordinary skill in the art to change the broadcast program when inventory or service specifics changed. In this manner, it will ensure that current and potential customers are not surprised by a lack of inventory, which will adversely affect customer satisfaction. Thereby, the method will have ensured customer satisfaction.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **(703) 305-8230**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **(703) 308-1344**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

or faxed to:

**(703) 872-9306** [Official communications; including  
After Final communications labeled  
"Box AF"]

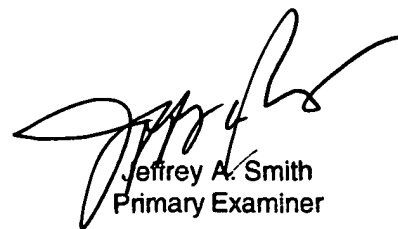
**(703) 746-7418** [Informal/Draft communications, labeled  
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Jeffrey A. Smith  
Primary Examiner